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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,818	12/27/2001	Alain Winninger	33339/242494	2481

826 7590 05/20/2003

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EXAMINER

CHARLES, MARCUS

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,818

Applicant(s)

WINNINGER ET AL.

Examiner

Marcus Charles

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

This is the first action with merit regarding serial application number 10/034,818. claims 1-13 are currently pending.

Election/Restrictions

1. The text of those sections not included in this action can be found in a prior Office action.

Drawings

2. The draftsman has approved the drawing filed with this application as formal drawing.

Specification

Abstract

3. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because in line 1, the phrase "The present Invention relates to" is considered as a phrase, which can be implied. It is suggested to delete the phrase from the abstract and replace "a" with --A--. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 4-5 rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not clear what is the nominal length of a drive system and the specification does not describe the nominal length of a drive system. Therefore, it is not enabling for one to compare the length of the belt on a test bench with the nominal length of a drive system.

6. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the phrase "very small nominal tension or almost most without any tension" is unclear because it is not clear how much tension can be considered as very small normal tension or almost without tension.

In claims 4 and 5, it is not clear as to what length is considered as an ISO standard and it is unclear as to the ISO standard. In addition, the phrase "as measured on a test bench" is unclear and it is not clear if the limitation of the phrase is part of the invention.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 1 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP('381,281) in view of Richmond('069). EP('381,281) teaches a V-belt (which is a power transmission belt) inherently comprises an elastomeric matrix and a tension reinforcement cord consisting polyamide 4.6 twisted filaments. EP('381,281) does not disclose the cooling can curing condition of the elastomeric matrix. Richmond discloses a belt comprising elastomeric material, which is cured and cooled without any belt tensioning in order to increase flexibility, provide optimum quality and maintain structural strength. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to cure and cool the elastomeric matrix of EP('381,281) without belt tensioning in view of Richmond in order to increase flexibility, provide optimum quality and maintain structural strength.

Regarding 7-10, EP('381,281) does not disclose the tensioning range, the diameter range of the twisted strand, the spaced between the strands, the nominal tension. It would have been obvious to one of ordinary skill in the art to carry out a stress elongation test so as to arrive at a particular value, since such a test is old and well know in the art. Furthermore, EP('381,281) it would have been obvious to one of ordinary skill in the art to modify the belt to spaced the strands at a desired distance and diameter and such that the nominal tension at forming the elastomeric matrix is less than 5N, since such a modification would have involve a mere change in size of the belt. A change in size is generally recognized as being within the lever ordinary skill in the art. In Rose, 105 USPQ 237 (CCPA 1955).

Allowable Subject Matter

9. Claims 2-3, 6 and 11-12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments, filed 02-19-2003, with respect to claims 2-3, 6 and 11-12 have been fully considered and are persuasive. The rejection has been withdrawn.


Applicant's arguments regarding claims 1, 4-5 and 6-12, filed 02-19-2003 have been fully considered but they are not persuasive. In response to application concerning twisted strand should be wound with very small or almost without tension and the cooling and curing operation. It should be noted that the phrase very small and almost with are subjective and relative phrases and one skilled in the art would be able to conclude which value can be considered as very small and almost without. In addition, applicant did not specify any value that can be considered as very small and almost without any tensioning. In addition, it is inherent for a curing and cooling process to be carried without any tensioning process in order to increase the elastic properties of the pelt. Therefore, the rejection of Richmond and EP 381,281 are proper.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (703) 305-6877. The examiner can normally be reached on Monday -Thursday 7:30 am-600 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703) 308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.


Marcus Charles
Primary Examiner
Art Unit 3682
May 17, 2003